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Examiner Gregory E. Webb

Remarks

The Final Office Action mailed on August 22, 2007 has been reviewed and the Examiner's comments have been carefully considered. Claims 79-81 and 83-89 were considered. Claims 79-81, 83-87 and 89 stand rejected and Claim 88 has been allowed. No new claims are added and claims 79-81 and 83-89 are now pending.

Claim 89 which depends from independent claim 79 is amended to clarify that the wash liquor is non-reactive for fabric washing application and is supported throughout the written description.

In the previous Response filed on April 27, 2007 Applicants submitted a Declaration under 37 C.F.R. §1.131 of Mr. Tremitchell Wright, an inventor of the present application. In the present Office Action, the Examiner objects to the Declaration. The Examiner states that none of the examples demonstrate the use of washing additive and none of the examples show a compound which is non-reactive, non-oleophilic, apolar working fluid.

In response to the rejection of claims 79-81, 83-87 and 89 under 35 USC §103(a) rejections as being unpatentable over by Flynn et al. (US 5,962,390) in view of the cited secondary references, Applicants hereby submit another Declaration under 37 C.F.R. §1.131 of Mr. Tremitchell Wright. The Declaration and supporting documents show that Applicants had conceived of and diligently reduced to practice the wash liquor compositions used for laundering a fabric load as recited in the independent claims prior to the effective 102(e) date (filing date). Applicants swear behind the Flynn et al. reference to remove it from consideration.

The Declaration submitted herewith provides ample evidence that inventors conceived and reduced to practice a wash liquor composition to be utilized for laundering a fabric load prior to the art of reference. Without the benefit of hindsight in reading Applicants' invention, it would not have been obvious for one of ordinary skill in the art at the time of the invention to combine various components to arrive at the wash liquor as disclosed and claimed for use in laundering a fabric load. The compositions used for dry-cleaning fabrics loads were so radically different from Applicants' claimed compositions. Applicants maintain that wash liquor compositions of the present invention were so radically different than wash liquors used in the dry-cleaning industry for cleaning fabric loads at the time of the invention, that obviousness

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rejections of such counter-intuitive wash liquors cannot be maintained for reasons other than hindsight reconstruction.

Claim Rejections Under 35 USC § 112

Claim 89 is rejected under 35 USC 112, first paragraph as failing to comply with the written description requirement. The Examiner states that the Applicants have not shown support for this newly added claim, however, the Examiner did not provide guidance as to what aspect or element of the claim was unsupported by the disclosure.

Applicants therefore object to the rejection but nevertheless amend claim 89 to clarify that the wash liquor comprising a co-solvent is non-reactive for fabric washing applications. The patent application as filed discloses throughout the written description the wash liquor composition being non-reactive with the fiber of the fabric load. Applicants believe claim 89 fully complies under 35 USC § 112.

Claim Rejections Under 35 USC § 103

Claims 79-81, 83-87 and 89 are not obvious under 35 USC § 103 as being unpatentable over Flynn, et al (US5,962,390) in view of each of Smith, et al. (US5,238,587), Muzutani (US 4,102,824) and Broze et al (US 4,786,431)

Claims 79-81 and 83-87 stand rejected under 35 USC § 103 as being unpatentable over Flynn, et al (US5,962,390) in view of Smith, et al. (US5,238,587).

The USPTO states that the Flynn et al. reference discloses a cleaning composition but does not disclose a washing additive having a fragrance as set forth in the pending patent application.

Applicants respectfully submit that there remains no past or present teachings which disclose wash liquors for use in laundering a fabric load comprising a non-aqueous, non-reactive, non-oleophilic apolar working fluid which also contains a washing additive which includes a fragrance. The Flynn reference fails to disclose wash liquors which clean fabric loads. Also, as explained in the previously-filed Declaration under 37 C.F.R. §1.132 of Mr. Tremitchell Wright which is of record, the long-standing, historical practices of the dry-cleaning industry have been

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that the non-aqueous wash liquors do not include perfume. This is evidenced by, for example, by the Login et al. patents (U.S. Patent Nos. 5,093,031 and 5,294,644) already of record herein. Still none of the cited references of record disclose a non-aqueous wash liquor for use in laundering a fabric load and which contains an additive comprising a fragrance.

Smith, et al. (US5,238,587) cited in the present Office action, discloses a porous substrate sheet article impregnated with a gelled liquid cleaning composition which is not at all present in a wash liquor. The substrate sheet is used in a dryer and as a freshener for clothes. One of ordinary skill in the art would not look to Smith et al. and be motivated to include perfume in a wash additive of a non-aqueous wash liquor composition. One of the many advantages of the porous substrate sheet containing perfume is its use on clothing at some point after the wash cycle had already been completed. Hindsight reconstruction without otherwise showing any evidence or teachings to combine the Flynn et al. and Smith et al. references to arrive at the wash liquor claimed by Applicants is improper under 35 U.S.C. §103.

In addition, the Mizutani et al. and Broze et al. references disclose detergents which include perfumes. These perfume additives are used with other additives, including organic additives, but for use in aqueous wash systems. The USPTO states that odor is the key and that Applicant is addressing "a well-known solution to a well-known problem." However, Applicants respectfully submit that malodorous residue has been around for a long time, yet the absence of a non-aqueous wash liquors containing the additives with a fragrance simply emphasizes the fact that this the development of non-aqueous wash liquors containing a fragrance is not an obvious practice.

Applicants respectfully requests withdrawal of the rejection of claims 79-81 and 83-87 rejected under 35 USC §103 as being unpatentable over Flynn et al. in view of Smith, et al., Mizutani et al. and Broze et al., respectively.

Accordingly Applicants respectfully request that claims 79-81 and 83-87 be found in condition for allowance.

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Declaration under 37 C.F.R. 1.131

Applicants hereby submit the Declaration under 37 C.F.R. §1.131 of Mr. Tremitchell Wright, an inventor of the present application to swear behind the reference of Flynn et al. U.S. Patent No. 5,962,390 (Ser. No. 08/649,361) filed on May 17, 1996 and to remove it from consideration.

Applicants' patent application 10/027,160 filed on December 20, 2001 is a Divisional of Application Serial No. 09/520,653, filed on March 7, 2000, which is a Divisional of 09/038,054, filed on March 11, 1998, which claims the benefit of the earlier filing date of provisional patent application 60/045,072 filed on April 29, 1997.

Flynn et al. U.S. Patent No. 5,962,390 (Ser. No. 08/649,361) filed on May 17, 1996 and issued on October 5, 1999 is a continuation-in-part of application No. 08/573,416 filed on December 15, 1995, and issued Pat. No. 5,926,390, and which is a continuation of application No. 08/375,812, filed January 20, 1995 now abandoned.

The Declaration and supporting documents, Exhibits C, D, E, F, G, H and I show that the Applicants had conceived of and diligently reduced to practice a wash liquor for laundering a fabric load recited in the independent claims prior to the effective 102(e) date (filing date) of Flynn et al. The supporting documents show that Applicants conceived of a wash liquor comprising non-aqueous, non-reactive, non-oleophilic, apolar working fluids and additives such as for example, bleach and fragrance, for laundering a fabric load. The art of record shows that no such compositions were contemplated at that time. The Exhibits show that the Applicants identified and tested several working fluids that were inert in combination with the additives yet were feasible and effective for laundering a fabric load in an automatic laundering apparatus. Exhibit II, specifically shows the digitized document records saved on the Whirlpool Information Network. The information is controlled digitized evidence which also establishes relative dates, i.e. the "Date Composed" of the various documents presented.

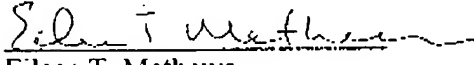
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In summary, Applicants believes that this Amendment is fully responsive to the Final Office Action mailed on August, 2007, and that Applicants' claims include features that patentably define over the cited references. It is respectfully requested that for the foregoing reasons discussed above and in view of the Declaration of Mr. Tremitchell Wright, that the claims 79-81, 83-87 and 89 of this application be found in condition for allowance. If the Examiner believes there are any further matters which need to be discussed the Examiner is is urged to contact the undersigned.

If there are any fees necessitated by the foregoing communication, please charge such fees to our Deposit Account No. 02-2051, referencing our Docket No. US19984054-3.

**BENESCH FRIEDLANDER COPLAN
& ARONOFF LLP**Dated: February 22, 2008
Eileen T. Mathews
Reg. No. 41,973
2300 BP Tower
200 Public Square
Cleveland, Ohio 44114
(216) 363-4451 (direct)
(216) 363-4588 (facsimile)